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10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. **2010-648**

15 **KEVIN RAYMOND REILLY**
3050 Lynde Street
16 **Oakland, CA 94601**
Registered Nurse License No. RN 489392

ACCUSATION

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing.

23 2. On or about March 31, 1993, the Board of Registered Nursing issued Registered
24 Nurse License Number RN 489392 to Kevin Raymond Reilly (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought here and
26 will expire on March 31, 2011, unless renewed.

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2 "(b) Use any controlled substance as defined in Division 10 (commencing with Section

3 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

4 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

5 himself or herself, any other person, or the public or to the extent that such use impairs his or her

6 ability to conduct with safety to the public the practice authorized by his or her license.

7 "(c) Be convicted of a criminal offense involving the prescription, consumption, or

8 self-administration of any of the substances described in subdivisions (a) and (b) of this section,

9 or the possession of, or falsification of a record pertaining to, the substances described in

10 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence

11 thereof."

12 8. Section 490 of the Code provides, in pertinent part, that a Board may suspend or

13 revoke a license on the ground that the licensee has been convicted of a crime substantially

14 related to the qualifications, functions, or duties of the business or profession for which the

15 license was issued.

16 9. Section 493 of the Code states:

17 "Notwithstanding any other provision of law, in a proceeding conducted by a board within

18 the department pursuant to law to deny an application for a license or to suspend or revoke a

19 license or otherwise take disciplinary action against a person who holds a license, upon the

20 ground that the applicant or the licensee has been convicted of a crime substantially related to the

21 qualifications, functions, and duties of the licensee in question, the record of conviction of the

22 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,

23 and the board may inquire into the circumstances surrounding the commission of the crime in

24 order to fix the degree of discipline or to determine if the conviction is substantially related to the

25 qualifications, functions, and duties of the licensee in question."

26 10. Title 16, California Code of Regulations, section 1444 states, in pertinent part:

27 "A conviction or act shall be considered to be substantially related to the qualifications,

28 functions, or duties of a registered nurse if to a substantial degree it evidences the present or

1 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
2 safety, or welfare ...”

3 **COST RECOVERY**

4 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of investigation and enforcement
7 of the case.

8 **DRUGS**

9 12. “Morphine”, is a Schedule II controlled substance as designated by Health and Safety
10 Code section 11055, subdivision (b)(1)(M) and is a dangerous drug as defined in Business and
11 Professions Code section 4022.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Gross Negligence)**

14 13. Respondent has subjected his license to disciplinary action under section 2761,
15 subdivision (a)(1), on the ground of unprofessional conduct (gross negligence) in that on or about
16 January 28, 2007, while employed as a registered nurse at the Alameda Hospital Skilled Nursing
17 Facility, in Alameda, California, Respondent admittedly administered 20 mg/ml of Morphine to
18 a seventy-one year old hospice patient¹ at 9:15 a.m. and 2:00 p.m., when the physician’s order
19 provided that the patient receive 10 mg/ml of Morphine every four hours. The patient died
20 shortly after the administration of the second dose of morphine.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Incompetence)**

23 14. Respondent has subjected his license to discipline under section 2761, subdivision
24 (a)(1), on the ground of incompetence based on the conduct set forth in paragraph 13, above.

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28 ¹ The patient’s name will be released to Respondent pursuant to a request for discovery.

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subdivision (b), in that on or about July 26, 2009, Respondent used alcoholic beverages to an extent dangerous or injurious to himself and others, as set forth above in paragraph 16.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 489392, issued to Kevin Raymond Reilly.
2. Ordering Kevin Raymond Reilly to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

6/17/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., R.N.
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant